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struggle over slavery and secession, the development of these associations is the greatest fact in our constitutional history. It is a sorry thought that the development of this great democratic institution, the party, the "machine" if you please, should, even after a century and a quarter, be accompanied by such wretched and sordid spectacles as our Lorimers and Sulzers and our Tammany Murphys afford. But the reading of these chapters tends to give a philosophic tolerance of, and indeed a feeling of hopefulness about a system, which too often displays only its selfish and unpatriotic sides.

The final chapters, "Social Compact and Constitutional Construction" and "A Written Constitution in Some of Its Historical Aspects" discuss, to quote from the preface, "the changing theories of political philosophy, . . . which furnished foundations for differing theories concerning the Union, . . . and show that American legal order took its rise in the theory of compact and of individual right, and in the belief that imperial order itself should rest on law—two theories or principles that now confront the reformer seeking to readjust social systems and to make them conform to what he considers present social demands."

The book as a whole shows a sanity of judgment, historical scholarship and grasp of legal principles quite unequalled among other writers upon this phase of our historico-legal development. H. M. B.

THE FOURTEENTH AMENDMENT AND THE STATES. By Charles Wallace Collins, M.A., Sometime Fellow in the University of Chicago; Member of the Alabama Bar. Boston: Little, Brown and Company, 1912, pp. xxi, 220.

This is a valuable study of the Fourteenth Amendment to the Federal Constitution, and especially of the restraint clauses of section one. In an historical introduction which is not without some partisan bias, the conditions leading to the adoption of the Amendment are described and the purposes sought to be thereby accomplished by the Republican party are declared to be principally the complete subordination of the states to the federal government in all civil and political matters, the "punishment of the South," the "elevation of the negro to the plane of equality with the white race," and the perpetuation of the powers of the Republican party. Unquestionably the radical wing of that party desired to accomplish some and perhaps all of these purposes. At least such desire may be attributed to many individuals in the radical wing, but such motives cannot be truthfully ascribed to the North or even to the Republican party as a whole. The author then shows how the Supreme Court in the *Slaughter House Cases*,[1] in *U. S.* v. *Cruikshank*,[2] and in *Barbier* v. *Connolly*,[3] rejecting the extreme interpretation urged upon it, which would have vastly increased the centralization of government at the expense of, if not entirely obliterating local government as to civil and political rights, adopted the conservative view set forth in the

[1] 16 Wall. 36.
[2] 92 U. S. 542.
[3] 113 U. S. 31.

opinion of Mr. Justice MILLER in the *Slaughter House Cases*. These decisions as Mr. Collins well says transferred the sphere of activity under the Amendment from Congress to the forum of the Courts. "It was thus rendered peculiarly non-automatic. As a weapon of defense by a citizen against the activity of his fellow-citizens it was rendered null; as against the activity of his own State it was made ponderous and unwieldy. . . . The Supreme Court, and the public at large, thinking that the Amendment had to do only with the negro race, thought thus to render the Amendment practically inoperative" (pp. 23, 24). While this has been to a large extent the result so far as the negro race is concerned, it may be doubted if the Supreme Court was conscious of such a purpose. In another chapter and in a valuable table (Appendix C) the author shows that while the Amendment has been involved in 604 cases from 1868 to 1910, in only twenty-eight of those cases, was the negro race concerned directly.

The narrow operation of the Amendment, which the decision in the *Slaughter House Cases* seemed to forecast, soon became a thing of the past, as the book shows. The Supreme Court did its utmost to discourage litigation under the Amendment, but the seemingly indignant protests at the all-comprehending construction claimed for it by hordes of corporation lawyers and others, protests voiced by Mr. Justice MILLER in *Davidson* v. *New Orleans*,[4] and by Mr. Justice FIELD in *Mo. Pac. Ry.* v. *Humes*[5] were powerless to stem the tide of litigation which after the first few years rose swirling around the Amendment and the Court. During the years above indicated 313 cases were brought by corporations to invoke the aid of this amendment against legislation or other official action, (See Appendix C) and the ebb of the tide is not yet in sight. This condition of affairs and its highly unsatisfactory consequences are well described by Mr. Collins in the main portion of his book. The failure of the amendment as a "constitutional ideal" is vigorously demonstrated in Chapter X.

The final chapter is devoted to a discussion of proposed remedies. Those favored by the author are: 1. Limitation of the right of writs of error to the State courts, to those cases where the State Supreme Court is divided on the question; 2. Prohibiting the Federal district and circuit courts and judges from assuming jurisdiction of any injunction, habeas corpus, or any other extraordinary proceedings by way of restraint upon the activities of the State; 3. Providing that no State law or procedure shall be declared unconstitutional by the Supreme Court of the United States as being repugnant to the provisions of the Fourteenth Amendment, except by a unanimous opinion.

The statistical tables, analyzing and classifying the litigation which has arisen under the Amendment have been worked out with great care and are instructive and valuable in high degree. The book as a whole is a very stimulating contribution to the literature of its much-discussed subject.

H. M. B.

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[4] 96 U. S. 103.
[5] 115 U. S. 520.